

**Risk Management Agency**

United States Department of Agriculture

[About RMA](#) | [Field Offices](#) | [Contact Us](#) | [¿En Español!](#)[What's New](#)[Newsroom](#)[Programs](#)[Blog](#)[Site Map](#) | [A-Z Index](#) | [Help](#) | [Search Tips](#)You are: [Home](#) / [Laws and Regulations](#) / Final Agency Determination: FAD-78**Popular Topics**

- ▶ [Appendix III/M-13](#)
- ▶ [Bulletins and Handbooks](#)
- ▶ [Crop Policies and Pilots](#)
- ▶ [Federal Crop Insurance Corp](#)
- ▶ [Field Offices: ROs | COs](#)
- ▶ [Frequently Asked Questions](#)
- ▶ [Information Browser](#)
- ▶ [Laws and Regulations](#)
- ▶ [Livestock Policies](#)
- ▶ [Reinsurance Agreements](#)
- ▶ [Risk Management Education](#)

**Final Agency Determination: FAD-78**[Index of Final Agency Determinations](#) | [About Final Agency Determinations](#)**FAD-78**

**Subject:** Request dated June 1, 2007, requesting a Final Agency Determination for the 2006 crop year regarding the interpretation of section 14(a)(3) (Our Duties) of the Common Crop Insurance Policy Basic Provisions (Basic Provisions), published at 7 C.F.R. 457.8 This request is pursuant to 7 C.F.R. part 400, subpart X.

**Background**

Section 14(a)(3) states:

14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage. Our Duties-

(a) If you have complied with all the policy provisions, we will pay your loss within 30 days after the later of: \*\*\*

(3) Completion of any investigation by USDA, if applicable, of your current or any past claim for indemnity if no evidence of wrongdoing has been found (If any evidence of wrongdoing has been discovered, the amount of any indemnity, prevented planting or replant overpayment as a result of such wrongdoing may be offset from any indemnity or prevented planting payment owed to you); or \*\*\*\*\*

**Interpretation Submitted**

The requestor interprets section 14(a)(3) (Our Duties) to mean that if a reinsured company has knowledge of an open investigation by the USDA, including but not limited to the Risk Management Agency (RMA), concerning an insured's prior years claim for indemnity, the reinsured company may not pay an otherwise properly payable indemnity to the insured for the current crop year until the USDA investigation is completed. For example, assume that a reinsured company has determined that an insured is properly entitled to an indemnity payment for the 2006 crop year and that the reinsured company has knowledge of an open investigation by RMA into the insured's crop year 2004 claim for indemnity. The requestor interprets section 14(a)(3) (Our Duties) of the Basic Provisions to mean that the reinsured company in the example is prohibited from issuing payment in connection with the crop year 2006 claim for indemnity until the RMA investigation into the 2004 claim is completed.

**Final Agency Determination**

FCIC agrees in part with your interpretation. The delay in paying any claim applies only to investigations of current or past claims where there is suspected wrongdoing on the part of the policyholder. If the USDA Office of the Inspector General (OIG) investigates a policyholder's current or past claim because of such suspected wrongdoing, the reinsured company is prohibited from paying a current year's replanting, prevented planting payment, or claim for indemnity until the investigation is complete. Likewise, if the RMA Compliance Office provides written notification to the reinsured company not to initiate payment pending an investigation, the reinsured company is prohibited from making such payment. However, if a RMA Compliance Office conducts routine policyholder reviews or makes inquiries of agent, loss adjuster or reinsured company error, the policy does not require the reinsured company to withhold the producer's current year's replanting, prevented planting payment, or claim for indemnity from the policyholder. If a past payment was made as a result of an agent, loss adjuster, or reinsured company error, it is the reinsured company's responsibility to repay the amount to RMA, not the policyholder.

With respect to the example, a 2006 claim for indemnity cannot be paid if there is an investigation by OIG of alleged wrongdoing by the policyholder in connection with the 2004 claim for indemnity until the investigation is completed.

In accordance with 7 C.F.R. 400.765(c), this Final Agency Determination is binding on all participants in the Federal crop insurance program for the 2006 crop year. Any appeal of this decision must be in accordance with 7 C.F.R. 400.768(g).

**Date of Issue:** August 20, 2007

[RMA Home](#) | [Site Map](#) | [Copyright](#) | [Reporting Fraud](#) | [Careers](#) | [Policies and Links](#) | [Accessibility Statement](#) | [Privacy Policy](#)  
[Non-Disclosure Agreements Notice](#) | [Non-Discrimination Statement](#) | [No Fear Act](#) | [Information Quality](#) | [FOIA](#) | [USA.gov](#) | [Whitehouse.gov](#)

**Exhibit 1**